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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 IN RE: Bard IVC Filters Products Liability  
10 Litigation,

No. MDL 15-02641-PHX-DGC

11 Sherr-Una Booker, an individual,  
12 Plaintiff,

No. CV-16-00474-PHX-DGC

13 v.

**ORDER**

14 C. R. Bard, Inc., a New Jersey corporation;  
15 and Bard Peripheral Vascular, Inc., an  
16 Arizona corporation,  
17 Defendants.  
18

19 The parties have submitted a second set of deposition excerpts in advance of trial.  
20 This order will set forth the Court's ruling on objections contained in these excerpts. The  
21 order will identify objections by the number of the deposition page on which they appear  
22 (without repeating the word "page" each time). If more than one objection appears on a  
23 page, the order will identify the line on which the objection starts. Where an objection is  
24 sustained, the order will identify the page and lines that should be omitted, but if no lines  
25 are identified, the objection is sustained with respect to all designated testimony on that  
26 page.

27 A. Robert Cortelezzi.

28 1. Page 61 – overruled.

- 1           2.     276 – overruled.
- 2           3.     299 – overruled.
- 3           4.     308 – overruled.
- 4           5.     312 – sustained. Incomplete question and answer.
- 5           6.     314 – sustained. No question identified.
- 6           7.     348 – sustained. Lack of foundation.
- 7           8.     349 – overruled.
- 8           9.     351 – overruled.
- 9           10.    359 – overruled.
- 10          11.    360 – overruled.
- 11          12.    368 – overruled.
- 12          13.    372 – overruled.
- 13          14.    373 – overruled.
- 14          15.    374:6 to 375:13, 375:20 to 376:9 – sustained. Foundation, 602.
- 15          16.    381:13 to 304:3 – sustained. Foundation, 602.
- 16          17.    384:15 – overruled.
- 17          18.    392 – sustained. Cumulative.
- 18    B.     Gary Cohen.
- 19          1.     30:15-18 – sustained. Hearsay. But overruled as to lines 19-22.
- 20          2.     31 – overruled.
- 21          3.     47:11 to 67:17 – sustained. The Court has already concluded that problems
- 22    with the Recovery filter are relevant to design of the G2 because the Recovery was the
- 23    predicate device. But Bard’s general failure to disclose problems with the Recovery is
- 24    not relevant to design of the G2 and is only marginally relevant, if relevant at all, to
- 25    Bard’s alleged failure to warn claim with respect to the G2. The danger of unfair
- 26    prejudice from these questions substantially outweighs any probative value.
- 27          4.     68 – overruled.
- 28          5.     71:21-23 – sustained. 403. Rest overruled.

- 1           6.     86:18 to 87:6 – sustained. 403.
- 2           7.     105 – sustained. Same reason as item 3 above.
- 3           8.     108 – sustained. Relevancy, 403.
- 4           9.     112 – all objections sustained. Relevancy.
- 5           10.    123 – overruled.
- 6           11.    128 – sustained. Same reason as item 3 above.
- 7           12.    129:12-22 – sustained. Same as item 3 above.
- 8           13.    137:9-14 – sustained. Relevancy.
- 9           14.    152:5-11 – sustained. No question designated. 402.
- 10          15.    153 – overruled.
- 11          16.    154 – all objections sustained. Confusing (Plaintiffs designate part of a
- 12          question and no answer), and no foundation for answer Defendants designate.
- 13        C.     Marcus D’Ayala.
- 14           1.     21:1-7 – sustained. Leading.
- 15           2.     21:9-13 – overruled.
- 16           2.5    21:14-19 – sustained. Leading.
- 17           2.75   21:20 – overruled.
- 18           3.     23:2-5 – overruled.
- 19           4.     23:8-13 – sustained. Leading.
- 20           5.     24:6 – overruled.
- 21           6.     24:19 – overruled.
- 22           7.     26 – overruled.
- 23           8.     27 – overruled.
- 24           9.     31:13 – overruled
- 25           10.    31:19 – overruled.
- 26           11.    33-35 – overruled. The information is specific to Dr. D’Ayala – Plaintiff’s
- 27          doctor – and he testifies it is information he would have wanted to know. The evidence is
- 28          relevant to causation on the failure to warn claim.

1           12.   36:11 to 37:20 – sustained. These questions are specific to Dr. D’Ayala’s  
2 use of Recovery filters, which is not the filter he placed in Plaintiff. Relevancy.

3           13.   38 – overruled.

4           14.   39 – overruled.

5           15.   40:8-12 – sustained. Leading.

6           16.   43:20 to 41:23 – overruled.

7           17.   44:24 to 45:6 – overruled (no leading objection made in margin).

8           18.   48 – overruled.

9           19.   49:6 – overruled.

10          20.   49:16 – overruled.

11          21.   50:1 – overruled.

12          22.   50:11-16 – sustained. Leading. Otherwise overruled.

13          23.   51:4 – overruled.

14          24.   56:13 – overruled.

15          25.   57:22 – overruled.

16          26.   58:4 – sustained. No question designated.

17          27.   61 – overruled.

18          28.   62 – overruled.

19          29.   63 – overruled.

20          30.   64 – overruled.

21          31.   66:19 to 67:10 – overruled on 602 and leading grounds (no other objection  
22 made).

23          32.   70 – overruled.

24          33.   77 – overruled.

25          34.   92:11 – overruled.

26          35.   92:23 – overruled.

27          36.   94 – overruled.

28          37.   95 – overruled.

- 1 38. 96:17 – overruled.
- 2 39. 126:3-8 – sustained. Leading.

3 D. Len Decant.

- 4 1. 188 – overruled.
- 5 2. 247 – overruled.
- 6 3. 272 – overruled.
- 7 4. 273 – overruled.
- 8 5. 287 – overruled.
- 9 6. 304 – overruled.
- 10 7. 341 – overruled.
- 11 8. 404 – overruled.
- 12 9. 407 – overruled.
- 13 10. 413:8 & 23 – overruled.
- 14 11. 414:17 – overruled.
- 15 12. 422 – overruled.
- 16 13. 423 – overruled.
- 17 14. 424 – overruled.
- 18 15. 427 – overruled.
- 19 16. 428 – overruled.
- 20 17. 429 – overruled.
- 21 18. 436:3&14 – overruled.
- 22 19. 437 – overruled.
- 23 20. 442 – overruled.
- 24 21. 443 – overruled.
- 25 E. Mary Edwards.
- 26 1. 129 – overruled.
- 27 2. 130:5-18 – sustained. Foundation, 602.
- 28 3. 134:15 to 135:15 – sustained. Foundation, 602.

- 1           4.     146:16 to 147:1 – sustained. Foundation, 602.
- 2           5.     156:15-24 – sustained. Foundation, 602.
- 3           6.     157 – overruled.
- 4           7.     158 – overruled.
- 5           8.     276 – overruled.
- 6    F.     Chris Ganser.
- 7           1.     42 – overruled.
- 8           2.     43 – overruled.
- 9           3.     45:12-24 – sustained. Relevancy.
- 10          4.     46 – sustained, No answer designated.
- 11          5.     51:1 – overruled.
- 12          6.     51:17 – sustained. No questions designated.
- 13          7.     52 – overruled.
- 14          8.     55 – All objections overruled.
- 15          9.     67:19 to 68:6 – sustained. Same reason as B.3 above.
- 16          10.    68:22 to 69:10 – sustained, Same reason as B.3 above.
- 17          11.    73 – overruled.
- 18          12.    76 – relevancy.
- 19          13.    78 – overruled.
- 20          14.    81 – overruled.
- 21          15.    86 – overruled.
- 22          16.    94 – overruled.
- 23          17.    43:12-22 – sustained. Relevancy. Otherwise overruled.
- 24          18.    120 – overruled.
- 25          19.    121 – overruled.
- 26          20.    126 – overruled.
- 27          21.    128 – overruled.
- 28          22.    133 – overruled.

- 1 23. 137 – sustained. No questions designated.
- 2 24. 140 – overruled.
- 3 25. 141 – overruled.
- 4 26. 153 – overruled.
- 5 27. 155 – overruled.
- 6 28. 157:8-10 – sustained. 403. Otherwise overruled.
- 7 29. 159 – overruled.
- 8 30. 221 – overruled.
- 9 31. 222 – overruled.
- 10 32. 223 – overruled.
- 11 33. 224 – overruled.
- 12 34. 237 – overruled.
- 13 35. 244 – overruled.
- 14 36. 247 – overruled.
- 15 37. 251 – sustained, Relevancy. The question is not evidence.
- 16 38. 252 – overruled.
- 17 39. 254 – overruled.
- 18 40. 255 – overruled.
- 19 41. 260 – overruled.
- 20 42. 277 – overruled.
- 21 43. 297 – overruled.
- 22 44. 303-304 – overruled.
- 23 45. 306 – overruled.
- 24 46. 307 – overruled.
- 25 47. 309 – overruled.
- 26 48. 312 – overruled.
- 27 49. 313 – overruled.
- 28 50. 314 – overruled.

1           51.    315 – overruled.

2           52.    322 – overruled.

3           53.    324 – overruled.

4    G.    Jason Greer – All objections overruled.

5    H.    Richard Harvey.

6           1.    35 – overruled.

7           2.    46:8 & 14 – overruled.

8           3.    47 – overruled.

9           4.    99 – overruled.

10          5.    106:4-8 – sustained. Speculation, 602.

11          6.    109 – overruled.

12    I.    Robert Ferrara.

13          1.    102 – overruled.

14          2.    103 – overruled.

15          3.    105 – overruled.

16          4.    111 – overruled.

17          5.    116 – overruled.

18          6.    122 – overruled.

19          7.    137 – overruled.

20          8.    165:21 to 166:3 – sustained. Foundation, 602. The question is not  
21   evidence, and the answer adds nothing relevant.

22          9.    176 – sustained. Same.

23          10.   190:20 to 192:19 – sustained. Foundation, 602.

24          11.   194, 195 – testimony to be withdrawn in light of preceding ruling.

25          12.   201 – overruled.

26          13.   223 – sustained, Foundation, 602.

27          14.   231:3 & 22 – overruled.

28          15.   246:23 to 249:16 – sustained. Foundation, 602.



- 1 16. 249:17-24 – overruled.
- 2 17. 255:11 to 256:18 – sustained. Relevancy.
- 3 18. 259:13 to 261:9 – sustained. Relevancy.
- 4 19. 264 – sustained. Relevancy.
- 5 20. 282 – sustained. Speculation, 602.
- 6 21. 283 – overruled.
- 7 22. 284 – overruled.
- 8 23. 287 – sustained. No questions designated.

9 J. Bill Little.

- 10 1. 20 – overruled.
- 11 2. 157:1 (And . . .)-4 – sustained, Speculation, 602.
- 12 3. 159:1 – no designation.
- 13 4. 159:21 – overruled.
- 14 5. 160 – overruled.
- 15 6. 165 – overruled.
- 16 7. 167 – overruled.
- 17 8. 170 – overruled.

18 K. John McDermott.

- 19 1. 35 – overruled.
- 20 2. 83 – overruled.
- 21 3. 137 – overruled.
- 22 4. 137-142:16 – sustained. Argumentative and a waste of time. The parties
- 23 may play 142:18 to 143:6.
- 24 5. 143 – overruled.
- 25 6. 153 – overruled.
- 26 7. 166 – overruled.
- 27 8. 164:4 – overruled.
- 28 9. 168:11 – sustained. Argumentative.

10. 194 – overruled.
11. 199 – sustained. Foundation, 602.
12. 200 – sustained. Foundation, 602. Reading document.
13. 201 – sustained. Same.
14. 228 – overruled.
15. 286 – sustained. Foundation, 602.
16. 290 – overruled.
17. 296 – overruled.
18. 307 – sustained. Vague as to product and time.
19. 308 – sustained. Vague as to product and time.
20. 310 – sustained. Vague as to time.

Dated this 14th day of March, 2018.



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David G. Campbell  
United States District Judge